99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-830

MAKING REPAYABLE ADVANCES TO THE HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

SEPTEMBER 16, 1986.—Mr. Whitten introduced the following joint resolution; which was referred to the Committee on Appropriations

SEPTEMBER 16, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. WHITTEN, by direction of the Committee on Appropriations, submitted the following

REPORT

[To accompany H.J. Res. 727]

The accompanying joint resolution provides a repayable advance of $600,000,000 from the general fund of the Treasury to the hazardous substance response (Superfund) trust fund. None of these additional funds made available to the hazardous substance response trust fund shall be available for obligation by the Environmental Protection Agency until after enactment of Superfund taxing authority.

This joint resolution addresses a technical problem. If the Superfund authorizing legislation and taxing authority is not enacted by September 30, 1986, approximately $600,000,000 of the remaining 1986 appropriation will expire. This measure will protect those funds and allow them to be carried over into 1987 and beyond, as originally intended in the 1986 HUD-Independent Agencies Appropriations Act.

This joint resolution provides no new budget authority and no additional outlays. The advance from the general fund will be repaid from future Superfund taxes as they are enacted. The Committee emphasizes that no additional funds would be made available by this joint resolution until the Superfund program and its taxes are reauthorized. The Committee also assures that this measure would in no way breach the $8.5 billion 5-year authorization level agreed to by the Superfund conferees over the fiscal year 1987-91 period.

71-006 O

H183-21

Finally, the Committee wants to emphasize that time is of the essence in the execution of the repayable advance authorized by this joint resolution. It is essential that the $600,000,000 be advanced to and deposited in the hazardous substance response trust fund by September 30, 1986. The Committee expects the Administration to take all necessary steps to expedite this advance and to assure that it is completed by the September 30, 1986, deadline.

COMPLIANCE WITH RULE XIII—CLAUSE 3

In compliance with Clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Language under the heading "Environmental Protection Agency, Hazardous Substance Response Trust Fund" in Public Law 99-160, as amended by Public Law 99-270 and Public Law 99-411, is further amended as follows:

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $900,000,000, of which [$702,000,000 shall be derived from the Hazardous Substance Response Trust Fund and $198,000,000 shall be derived from advances from the general fund of the Treasury to the Hazardous Substance Response Trust Fund to be repaid in accordance with section 223(c)(3) of Public Law 96-510 and notwithstanding section 223(c)(2)(D) of Public Law 96-510: *Provided,* That none of the $150,000,000 made available by Public Law 99-270 shall be available for obligation after May 31, 1986: *Provided further,* That of the additional $48,000,000 made immediately available, $15,000,000 shall be obligated by September 30, 1986, for continuation of ongoing remedial and removal site work and $19,000,000 shall be used only to continue ongoing contracts and to replace contracts for essential services:] *$102,000,000 shall be derived from the Hazardous Substance Response Trust Fund and $798,000,000 shall be derived from advances from the general fund of the Treasury to the Hazardous Substance Response Trust Fund to be repaid in accordance with section 223(c)(3) of Public Law 96-510 and notwithstanding section 223(c)(2)(D) of Public Law 96-510: Provided, That none of the $150,000,000 made available by Public Law 99-270 shall be available for obligation after May 31, 1986: Provided further, That of the $48,000,000 made available by Public Law 99-411, $15,000,000 shall be obligated by September 30, 1986, for continuation of ongoing remedial and removal site work and $19,000,000 shall be used only to continue ongoing contracts and to replace contracts for essential services: Provided further, That none of the additional $600,000,000 advanced to the Hazardous Substance Response Trust Fund by this joint resolution shall be available for obligation until Superfund taxing authority is enacted: Provided further,* That all funds appropriated shall remain available until expended, except as specified above: *Provided further,* That funds appropri-

ated under this account may be allocated to other Federal agencies in accordance with section 111(a) of Public Law 96–510: *Provided further,* That for performance of specific activities in accordance with section 104(i) of Public Law 96–510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, $21,000,000 shall be made available to the Department of Health and Human Services, to be derived by transfer from the Hazardous Substance Response Trust Fund, of which no less than $5,125,000 shall be available for toxicological testing of hazardous substances. For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, not to exceed $90,000,000 shall be available for administrative expenses.

Inflationary Impact Statement

Pursuant to clause 2(l)(4), Rule XI of the House of Representatives, the Committee states that in its opinion this resolution, as proposed, will have no overall inflationary impact over the broad spectrum of the Nation's economy.

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99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-831

CONTINUING APPROPRIATIONS, 1987

SEPTEMBER 17, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WHITTEN, by direction of the Committee on Appropriations, submitted the following

REPORT

[To accompany H.J. Res. 730]

The accompanying joint resolution provides government financing for the 1987 fiscal year for programs funded by appropriations bills that have not been enacted into law by September 30, 1986. The joint resolution provides full year funding under the terms and conditions specified by this resolution, or until the regular annual appropriations bills are signed into law. Those bills which this resolution covers, if and when enacted into law, would come out from under this Act. The timely enactment of the accompanying joint resolution is necessary and essential to provide for the operations of nearly all vital government programs.

STATUS OF APPROPRIATIONS BILLS

The House has passed eleven of the thirteen regular appropriations bills reported by the Committee on Appropriations. The Defense Appropriations bill and the Foreign Assistance Appropriations bill were reported prior to the August recess and are awaiting floor scheduling. This continuing resolution is absolutely essential for the orderly operations of the government, since it appears that the Senate will be able to pass only a few bills, with final Congressional action not able to be completed before the October 1st beginning of the fiscal year.

The Committee emphasizes that all thirteen appropriations bills that were reported by the Committee are within the formal section 302 allocation for discretionary budget authority as required by the Budget Act. The accompanying continuing resolution is also within the applicable allocation of the Congressional Budget Resolution for fiscal year 1987 for discretionary budget authority.

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H183-22

Levels of Funding Under the Resolution

Section 101 (a)–(m) provides funding for each of the thirteen regular appropriations bills at levels that reflect the latest action of the House. The Committee adopted this approach in order to keep faith with actions already taken by the House. It is hoped that this method of proceeding will both minimize controversy since the House has previously worked its will on these matters and also that it will preserve the position of the House on these important matters.

Funding levels for the thirteen regular appropriations bills are provided at the following rates of operations in section 101 as follows:

(a) Agriculture	H.R. 5177 as passed the House July 24, 1986
(b) Commerce, Justice, State, & Judiciary.	H.R. 5161 as passed the House July 17, 1986
(c) Defense	H.R. 5438 as reported to the House August 14, 1986
(d) District of Columbia	H.R. 5175 as passed the House July 24, 1986
(e) Energy and Water Development.	H.R. 5162 as passed the House July 23, 1986
(f) Foreign Assistance	H.R. 5339 as reported to the House August 5, 1986
(g) Housing and Urban Development-Independent Agencies.	H.R. 5313 as passed the House September 12, 1986
(h) Interior	H.R. 5234 as passed the House July 31, 1986
(i) Labor, Health and Human Services and Education.	H.R. 5233 as passed the House July 31, 1986
(j) Legislative	H.R. 5203 as provided in the Conference agreement filed in the House on August 15, 1986 (H. Rept. 99–805)
(k) Military Construction	H.R. 5052 as passed the House June 25, 1986
(l) Transportation	H.R. 5205 as passed the House July 30, 1986
(m) Treasury-Postal Service	H.R. 5294 as passed the House August 6, 1986

Continuation of Ongoing, Unauthorized Programs

Section 101(n) provides for the continuation of various ongoing programs that were provided for in the current fiscal year, but on which authorization has not been completed. This section provides funding for the following programs at the appropriate rate:

Public health activities authorized by sections 331–338, 513, 517, 1001 and 2010 of the Public Health Service Act, which include the following:

The National Health Service Corps, authorized by sections 331–338 of the Public Health Service Act, supports the place-

ment of medical and dental personnel in health manpower shortage areas throughout the United States. Approximately 3,300 individuals are currently serving in the Corps. These health professionals, most of whom are performing obligated service as a result of federally financed scholarships, are expected to provide care to 3.5 million Americans.

The alcohol and drug abuse research program, authorized by sections 513 and 517 of the Public Health Service Act, support intramural and extramural research on the cause, treatment, and prevention of these debilitating problems. In FY 1986 these activities, which are administered by the Alcohol, Drug Abuse and Mental Health Administration, received $119,609,000. These funds supported 13 research centers, 231 extramural research grants and intramural research laboratories in Bethesda and Baltimore, Maryland.

The Family Planning Program, authorized by section 1001 of the Public Health Service Act, assists approximately 3,900,000 individuals with family planning and contraceptive services which are delivered through a network of 4,000 public and private non-profit clinics. Both the basic authorization and H.R. 5233, the FY 1987 Appropriations Bill for the Departments of Labor, Health and Human Services, and Education, prohibit the use of these funds for abortions.

The Adolescent Family Life Program, authorized by section 2010 of the Public Health Service Act, assists in the development of effective family-centered demonstration models designed to help prevent adolescent pregnancy and to alleviate its adverse consequences. The program supports 80 demonstration projects throughout the country.

Refugee and entrant assistance activities authorized by Title IV of the Immigration and Nationality Act, Part B of Title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980 except that no activity authorized by such Acts shall be funded beyond September 30, 1987, which include the following:

The Refugee and Entrant Assistance Program provides two types of services intended to assist in the assimilation of refugees and entrants admitted to this country since 1975. First, grants are provided to States to offset the cost of cash and medical assistance provided to eligible refugees. Second, the program supports a variety of direct services programs directed at the English language, job training and public health needs of these immigrants. The authorization for this program expired on September 30, 1983. For this reason the resolution limits funding to amounts necessary to continue existing projects through September 30, 1987. It is imperative that these programs be reauthorized prior to this date. The Committee wishes to make clear, however, that the continuing resolution provides sufficient funds to maintain all activities through September 30, 1987, including special assistance to Dade County schools and Jackson Memorial Hospital.

Programs authorized by the Head Start Act, as amended, which include the following:

The Head Start Program provides comprehensive social services to about 450,000 children annually. The program attempts to foster the development of preschool children from low-income families to enable them to deal more effectively with both their present environment and later responsibilities in school and community life.

Dependent Care activities authorized by Chapter 8–D of Title VI A of the Omnibus Budget Reconciliation Act of 1981, as amended, which include the following:

The Dependent Care Block Grant Program is designed to provide States with funds to develop dependent care resource and referral systems and to expand child care services to school-age children.

Activities authorized by the Native Americans Programs Act, as amended, which include the following:

Native American Programs are aimed at promoting the self-sufficiency of American Indians, Alaska Natives and Hawaiians by encouraging economic and social development. About 200 projects can be supported in the areas of employment opportunities, small business, tribal management, housing, and economic development.

Activities authorized by the Community Services Block Grant Act, as amended, which include the following:

The Community Services Block Grant, authorized by the Community Services Block Grant Act, provides an allocation to each of the States that is used to ameliorate the causes of poverty in communities within the State. Approximately 860 local community action agencies are funded together with 75–80 discretionary grants.

Payment to the Local Government Fiscal Assistance Trust Fund to continue to carry out activities authorized by 31 U.S.C. 6701 *et seq.* under the terms, conditions and at 75 percent of the rate provided in H.R. 1400 as if enacted into law which was reported by a vote of 28 to 10 on May 21, 1986, to the House of Representatives, which include the following:

The Local Government Fiscal Assistance Program, commonly known as Revenue Sharing, provides funding assistance to approximately 40,000 local units of government in every part of the nation. This program, in existence since FY 1973, has affected every person in the nation and has greatly contributed to revitalization of the nation's cities, towns, and counties. It is intended that the reduction from the amount authorized be taken proportionally from each quarterly payment.

Activities authorized by the Follow Through Act, which include the following:

The Follow Through Program is designed to improve the quality of educational services for children from low-income families in the early elementary grades. The intent is to sustain the gains made by preschool children through the Head Start Program. About 60 school districts are currently participating in the program serving about 5,000 children.

Activities authorized by the Rehabilitation Act of 1973, which include the following:

The Rehabilitation Services Program include a variety of research, training, and demonstration activities designed to assist the States in rehabilitating disabled individuals. On an annual basis, about 225,000 disabled individuals are rehabilitated through programs supported with Federal funds.

Activities authorized by the Higher Education Act, the Mutual Education and Cultural Exchange Act, Title XIII, part H, subpart I of the Education Amendment of 1980, and Sections 405 and 406 of the General Education Provisions Act, which include the following:

Student Financial Assistance includes the Pell Grant, Supplemental Educational Opportunity Grant, College Work-Study, National Direct Student Loan and State Student Incentive Grant Programs. In the aggregate, about 5,400,000 grant awards are made under these programs each year.

Higher Education Programs include a variety of programs which provide financial assistance to colleges and universities to improve educational opportunities for disadvantaged students. About 500,000 students are served directly or indirectly through these programs each year.

Migrant Education Programs provide grants to institutions of higher education to assist migrant and seasonal farmworkers beyond the age of compulsory school attendance to complete the courses necessary to receive a high school diploma or its equivalent, and to assist migrant students enrolled in their first undergraduate year at a college or university. About 3,500 students are served on an annual basis by these programs.

Education Research includes grants and contracts to educational institutions for carrying out studies and analyses of ways to improve the delivery of educational services. About 200 projects will be supported.

Library Research and Training Programs provide assistance to universities and library organizations in seeking ways to improve the delivery of library services and to assure an adequate supply of trained librarians. About 70 fellowships are awarded each year.

Activities authorized by the Domestic Volunteer Service Act of 1973, as amended, which include the following:

The Action Agency, authorized by the Domestic Volunteer Service Act, is responsible for fostering volunteer activities throughout the nation. Over 400,000 volunteers are supported by Action programs, principally through the Volunteers in Service to America (VISTA) program and the older American volunteer programs.

United States Institute of Peace, authorized by the United States Institute of Peace Act, which includes the following:

The United States Institute of Peace, authorized by the United States Institute of Peace Act, is a new Federally-funded entity which has been in operation only since the spring of this year. It is designed to conduct research and studies and provide education and training concerning the means to promote international peace and the resolution of conflicts among the nations of the world without recourse to violence.

For carrying out the Low Income Home Energy Assistance Program as authorized by Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended, $1,986,000,000, which includes the following:

For the low income home energy assistance program (LIHEAP), the resolution provides $1,986,000,000. This program provides cash and in-kind assistance to help poor families pay the high cost of home energy. Funds are distributed to the States under a formula specified in the authorization statute, Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. States then have considerable latitude in setting eligibility standards and benefit amounts. In FY 1986, this program provided assistance to approximately 7,300,000 households. The President's budget, amended on August 15, 1986, requests $1,872,100,000 for this program.

Activities authorized by the "Construction Industry Labor Law Amendments of 1985" as passed by the House of Representatives on April 17, 1986, which includes the following:

This bill (H.R. 281) would amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry. It would do this by correcting two deficiencies in the current law, as presently administered by the National Labor Relations Board, having to do with "double-breasted" contracting and the repudiation by contractors of collective bargaining agreements.

Termination Date

Section 102 of the resolution provides for the continued availability of funding for programs covered by this resolution until September 30, 1987, or until the applicable regular appropriations bill is enacted into law.

The Committee emphasizes that when regular bills are signed into law, the provisions of the continuing resolution automatically disengage and the regular appropriations acts then become the funding device. This continuing resolution in no way precludes subsequent enactment into law of the regular appropriations acts.

The Committee continues to be dedicated to the principle of financing federal programs under the traditional authorization and appropriation process which includes individual appropriations bills. Therefore, it will continue its efforts to enact regular bills as soon as possible.

Other Technical Provisions of the Resolution

The accompanying joint resolution carries the usual necessary technical provisions relating to obligations or expenditures made during the duration of the continuing resolution.

Faulty Farm Policies

The Committee points out that the law does not require farm borrowers to meet "cash flow" requirements or to otherwise require immediate payment of past due debts. Such inability to repay such debts are largely caused by the Government's failure to offer

our surplus basic agricultural commodities for sale in world trade at competitive prices. In 1974, 1975, 1976 and 1980 embargoes were placed on exports and since then commodities have not been offered at competitive prices which is the same as an embargo. Therefore, none of the funds in this or other law should be used to require "cash flow" as a requirement for a farm production loan or guarantee.

The Congress had directed the Department of Agriculture to conduct a major review of the impact of embargoes on American farmers. A special appropriation of $500,000 was provided in August of 1985 for conducting this study which is now nearing completion.

For some years our government has seemed willing to do anything with basic commodities except "lay on the counter" at competitive prices what we have that is surplus to domestic needs. If we would return to such sales, foreign buyers would help with entry into their country.

The payment-in-kind program (PIK) cost farms 11 percent of our farm production, which went to foreign increases. Present farm policies call for approximately a 25 percent reduction in production to be eligible for farm benefits. This reduction, of course, will go to our competitors in increases.

As a result of such policies, the financial condition of most farmers continues to be dangerous and the effect is seen in the domestic economy and in our trade deficit. For months we have seen foreclosures, and the suffering, sorrow, and even suicides that have followed. Such reports also indicate the growing number of small town merchants who are going out of business and the drying-up of many rural communities. Farm equipment manufacturers are going into the service business. The Federal Deposit Insurance Corporation reports that a total of 120 banks, including 62 agricultural banks, failed in 1985—an increase of more than 50 percent over the previous high of 79 in 1984. On September 13, 1986, the Federal Deposit Insurance Corporation announced that its list of troubled banks is now 1400, up from 1150 at the end of last year and up from 218 banks in 1981. The list of troubled banks includes 37 banks with assets of $500 million or more, or approximately 7.6 percent of the Nation's largest banks. The FDIC Chairman further announced that 240 bank failures are anticipated during the next 14 months.

It is estimated that the Farm Credit System's 1986 deficit will be between $1.5 billion and $1.8 billion. This deficit follows the system's record $2.7 billion loss in 1985. In the long run, the system cannot last unless its borrowers make money above costs.

The Department of Agriculture recently reported that our May farm trade deficits of $348,200,000 are the greatest in the history of our Nation as we buy more imported food and export less. Concern grows that unless the present trend is altered, we may become a permanent net food importer within a few years, giving up our long held role as food supplier to the world.

American agriculture is the largest customer of American industry and labor. American agriculture is the consumer's source of the finest and most economical supplies of food. American agriculture provides one out of five jobs in our country.

If we are to save American agriculture, the Farm Credit System which depends upon a sound agriculture, and our overall economy, we must return to the successful farm program that was operated for many years and thereby regain and retain our normal share of world markets. Volume is just as essential as price. Such a program was included in H.J. Res. 465 from our Committee which passed the House, but died in Conference. We must prevent the efforts currently underway by officials of the government to use "cash flow" requirements or other gimmicks to disqualify borrowers, and force hundreds of thousands of American farmers out of business.

Concern Over Outlay Estimating

The Committee continues to have serious reservations about the use of outlay estimates as a measurement tool to predict precise Federal spending at a particular point in time in the budget process. The concern lies with the imprecision and softness of outlay estimates. In effect, this practice places too much control over the budget process in the hands of congressional and executive branch officials who must try to estimate spending rates based on decisions made by executive branch program managers. This function of predicting programmatic behavior or estimating and approving outlay rates for various legitimate reasons cannot be done with any degree of precision. An examination of past outlay estimates clearly shows this. Outlay estimates are often the victims of weather—good weather may accelerate outdoor construction and thus increase outlays in government construction projects; bad weather on the other hand may affect crop production which might impact on commodity price supports. Strikes, the availability of raw materials, international events, floods and natural disasters, and other externalities all can affect outlays, as do administrative political decisions to affect elections and public perception.

During fiscal year 1986, the Budget Resolution provided additional budget authority that assumed additional obligations could be incurred; however, no additional outlay ceiling was provided. This inconsistency in effect prohibited the payment of funds and increased the carryover balances. Outlays are determined by executive branch decisions that affect spendout rates and are not under the control of the Congress.

The Committee notes with great concern the recent attempts that have been made through various retrenchment efforts, such as the Gramm-Rudman-Hollings Act, to use estimates of outlays (sometimes as much as 14 months before the end of the fiscal period) to predict the deficit. To attempt to "nail down a precise figure" is either ludicrous or impossible.

The debate over the size and growth of the Federal deficit is of serious concern to the Congress and the Administration. To base the debate on "guesstimates" using an imprecise measurement tool undercuts a legitimate policy responsibility of elected officials.

The deficit is a residual figure. Estimates of outlays may go up or down; revenue projections may go up or down. The dynamics of the two—revenues and outlays—taken together result in a deficit projection. The seriousness of that projection is underscored by the so-

called "triggering" mechanism in the Gramm-Rudman-Hollings Act. If that estimate triggers a sequestration, draconian cuts would be made in social programs, capital construction activities, and military spending.

As was stated earlier, bills that were reported by the House Appropriations Committee to the House were all within the allocation of discretionary budget authority and thus within the applicable allocation under the Congressional Budget Resolution for fiscal year 1987.

Budget authority is a more valid measurement tool for the purposes of budgetary control than outlays. First of all, it is a precise tool for the purposes of budgetary control. Congress has the authority to approve precise amounts in appropriations legislation. Secondly, budget authority determines outlays not only in the budget year but in the all-important outyears. For these reasons, the Committee believes that discretionary budget authority must be the method of spending control if the Congressional Budget process is to realize one of its more important objectives.

Oak Hollow NIKE Site, North Huntingdon Township, PA

The Committee directs the General Services Administration to reconsider the offer made by the North Huntingdon Township (NHT) Commissioners for the purchase of 17.46 acre parcel of property on Morris Avenue, known as the Oak Hollow NIKE Site. The Township has been using this property for a number of years, and has made $96,250.00 in improvements on the property over the past 10 years. These improvements include things such as the connection of public sewage to the site which had been served by a septic tank when the Army had the site, and improvements to the buildings which would have been destroyed. The Committee believes that the local government that funded these improvements should receive credit for those expenditures when GSA determines the appropriate price of the property. It is estimated that the property needs an additional $150,000 worth of improvements.

If an agreement cannot be reached with the North Huntingdon Township Commissioners regarding the purchase of the property, the Committee strongly encourages the GSA to continue their current arrangement with the NHT Commissioners until this issue is resolved.

WIC Program Regulations

On September 9, 1986, the Department of Agriculture proposed a new formula for distribution of funds for the feeding program for women, infants and children (WIC). The present formula was highly acclaimed in 1983 for its fairness. The Committee is concerned over claims that the proposed formula would skew funds to those States that currently have a higher percentage of participants and would have a deleterious effect on those States with a high percentage of eligible persons not on the roles. Accordingly, the Committee has added a provision to delay issuance of a new formula until June 1, 1987, and implementation of a new formula until October 1, 1987. These dates should allow the Department

time to coordinate with States and other interested parties in an effort to determine the most equitable formula.

Rural Rental Housing

The Committee has been informed that relatively low interest rates combined with other factors appear to be conducive to an alarming increase in attempts by recipients of FmHA section 515 loans to prepay those loans made prior to 1980. Recipients of loans made since January 1, 1980, have had to commit to maintaining their units at low rentals for a minimum of 20 years. However, no such commitments apply to pre-1980 loans, and depending on how many prepayments are eventually sought, as many as 5,377 units in 368 separate apartment buildings throughout the Nation could be effectively removed from the national supply of low-income housing in the very near future. The Committee has therefore proposed a moratorium on any processing of prepayment requests for such section 515 loans for the duration of fiscal year 1987, in order to give the Congress sufficient time to assess the situation and take whatever remedial action appears advisable.

Tenth International Pan American Games

The Tenth International Pan American Games will be held in Indianapolis, Indiana, and will require the feeding of over 10,000 participants during the games. In order to assist in the feeding of the participants, the Committee recommends allowing the Secretary of Agriculture to provide surplus agricultural commodities from inventory in an amount not to exceed $600,000 to complement the support provided by the Department of Defense for this international event.

Payment Limitations

The Committee has included bill language amending the Food Security Act of 1985 by imposing a $250,000 limitation on payments for 1986 and 1987 crops under one or more of the programs established under the Agricultural Act of 1949 and the National Wool Act of 1954. This language is intended to close several of the loopholes in the existing law that have resulted in payments to partnerships, corporation, and other entities far in excess of those intended by the Congress. It would not affect the dairy programs, the Conservation Reserve program, or any agreement or contract in effect at the time of enactment of this resolution.

Rural Electrification Administration

To expedite the construction of and to facilitate the availability of loans from private capital sources for two hydroelectric projects on the Arkansas River (Arkansas River Lock Dam 13; and Kaw hydroelectric project) for the benefit of rural electric systems, the administrator of the Rural Electrification Administration is directed to utilize his existing authority to provide security to non-governmental lenders in the form of a shared first mortgage on all the properties and assets of the rural electric systems participating in these projects.

The benefits of rural electrification and telephone service are widely recognized for their role in development of rural area. The rural electric cooperatives are urged to expand their efforts in development of rural areas which they serve, as the law allows as set out in section 5 of the Rural Electrification Act. However, the Committee is aware of the Department's inaction to make loans to qualified applicants and therefore has instructed REA to implement the program by earmarking available unused loan authority.

Economic Development Administration

Sec. 112 of the resolution extends the availability of funds obligated but undisbursed for EDA Local Public Works projects in New York City until March 31, 1988 if the total amount of such funds is not finally determined by October 15, 1986. Sec. 108 of Public Law 99-190 provided for the obligation and expenditure of such funds for Fiscal Years 1986 and 1987 for projects in New York City, authorized under either Title I of the Local Public Works Capital Development and Investment Act of 1976 or under Title I of the Public Works and Economic Development Act of 1965. To date EDA has authorized projects totaling $10 million under this authority and is in the process of identifying between $2 million and $4 million in additional undisbursed funds for additional projects. The final amount depends on the completion of final negotiations and audits which are expected within the next few weeks. The provision in the resolution will extend the availability of these funds for an additional six months until March 31, 1988 if the total amount of such funds is not finally determined by October 15, 1986.

Sec. 113 of the resolution permits the SEDA-COG Joint Rail Authority in Lewisburg, Pennsylvania to sell any portion of real property that was acquired with proceeds of an EDA grant and to retain all of the proceeds of such sale if such proceeds are used for purposes which meet EDA criteria and are approved by EDA. SEDA-COG received a grant from EDA for approximately one half of the total cost of purchasing a section of rail line from Conrail. The grant agreement specified that proceeds realized from the subsequent sale of any part of this property be repaid to EDA proportional to its participation in the purchase (50%). The provision in the resolution will permit SEDA-COG to keep all of the proceeds of the sale which total $40,000 if its use of such proceeds meet EDA criteria and such use is approved by EDA.

DOD Procurement Reform

The Committee has provided bill language on four procurement reform issues as passed by the House during deliberations on the DOD Authorization Bill for fiscal year 1987. They are: establishment of an Under Secretary of Defense for Acquisition and the Defense Acquisition Crops; enhanced protection for military "whistle blowers" and certain contractor employees; expansion of the "revolving-door" policy; and restrictions on the excessive use of unpriced contracts.

Export License Application Processing

The Committee is concerned that the federal government's export license application procedures may be resulting in excessive processing delays and a subsequent loss of sales for United States exporters. When the country is amassing the largest trade deficits in its history, such delays can not be tolerated.

Although the Export Administration Office within the Department of Commerce has the principal responsibility for processing export license applications, the Defense Technology Security Administration (DTSA) within the Department of Defense reviews applications referred to it by the Department of Commerce for specified dual use goods and technologies consistent with national security objectives.

The Committee believes that better coordination and less duplication of effort between the Departments of Defense and Commerce in the processing of export license application should lead to shortened processing times. The Committee, therefore, directs the Departments to study the current conditions and to report to the Committee by February 1, 1987, on the actions taken and proposed to improve the situation.

In addition, to prevent serious deterioration from the application processing level experienced by the Export Administration Office in fiscal year 1986, the Committee recommends a transfer of $1,500,000 provided in H.R. 5438 for operation and maintenance, defense agencies to the Export Administration Office within the Department of Commerce. The additional money provided to the Office of Export Administration should be used to meet the required 15-day turnaround period on export license applications to COCOM nations and to implement the foreign availability provisions (which are intended to eliminate licensing requirements on goods widely available from foreign sources) and other new responsibilities as mandated by P.L. 99-64, the Export Administration Act.

Chemical Aversion Therapy

The Committee has included a general provision, section 122, which directs the Secretary of Defense to conduct a demonstration project on the use of aversion therapy in the treatment of alcoholism.

Binary Chemical Weapon Funding

The resolution includes a section which adds $47,200,000 to the Department of Defense Appropriations Bill 1987, as reported to the House on August 14, 1986 (H.R. 5438) to make the funding level for chemical munitions and related facilities consistent with the House-passed Department of Defense Authorization Act, 1987 (H.R. 4428). The additional funds are to be offset by corresponding general reductions in the affected appropriations. H.R. 5438 as reported included $18,600,000 for a facility to produce the chemical DC and $2,520,000 to prove out that facility. The additional funds provide the following:

Bigeye bomb production (Navy)	$10,000,000
GB-2 artillery projectile production	32,600,000

GB–2 metal parts facility expansion	4,600,000

H.R. 5438 as reported also contains a House-passed provision which prohibits obligation of funds for procurement of chemical weapons or facilities until after October 1, 1987.

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

Section 126 permanently prohibits federal funding for any effort to study, to plan, to implement, to construct, or to issue any permit for the Northfield Mountain Water Supply Project or the Millers and Tully Rivers Water Supply Project in Massachusetts. These projects provide for the out-of-basin transfer of water from the Connecticut River and its tributaries, Millers and Tully Rivers, to supply additional water to metropolitan Boston. This section would have the effect of prohibiting the issuance of any federal permits required for construction of these projects, including permits issued by the Army Corps of Engineers under Section 404 of the Clean Water Act. This provision would allow the U.S. Fish and Wildlife Service to undertake environmental studies relating to these projects and to provide other entities with technical support or environmental analyses of the adverse impacts on fish and wildlife resources associated with these projects.

The Committee is aware of Corps plans to realign the existing channel of the Black Warrior and Tombigbee Rivers, Alabama, in the vicinity of Jackson, Alabama, which is necessary to provide a safe channel for traffic passing under the railroad bridge and to reduce annual dredging requirements by maintaining the flow of the channel through this section. In addition, a public port would offer local interests the opportunity to take advantage of transportation savings offered by the waterway. At river mile 90, a spur canal in the left bank of the waterway approximately 1,000 feet long by 300 feet wide, which is estimated to cost $2,300,000, would provide for a port facility. Therefore, the Committee directs the Corps to realign the navigation channel including construction of training works to provide a safe channel. This effort is to be accomplished within available Operation and Maintenance, General funds. Also, the Corps is directed to construct a port facility as described above utilizing available Construction, General funds, subject to a non-Federal sponsor agreeing to cost share the port under terms and conditions acceptable to the Secretary of the Army.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Section 128 amends the 1960 San Luis Act to make clear that the Secretary of the Interior may not require CVP power contractors to repay the costs of drainage facilities or irrigation water distribution works.

The Committee believes this provision is advisable in view of an opinion recently issued by the Solicitor for the Department of the Interior. The Committee makes no judgment whatever about the legal or policy merits of this opinion and wishes to clarify that this

section should not affect in any way any determination of the merits of that opinion. The Committee merely desires to clarify that drainage facilities and irrigation water distribution works, including the interceptor drain or alternative facilities or programs, shall not become directly or indirectly the CVP power contractors' burden.

The objective of the Committee is to ensure that general principles of CVP repayment policy continue to be followed, namely that irrigation water distribution works and drainage facilities are the financial responsibilities of the local beneficiaries.

DREPARTMENT OF ENERGY

Atomic Energy Defense Activities

The Committee has added $20,000,000 above the amount provided in H.R. 5162 for defense waste byproducts management in order to accelerate waste disposal activities at the Hanford Reservation, Richland, Washington. The Department has estimated that Hanford's share of the funds provided by the House-passed bill for this activity is $154,000,000. Thus, the Committee expects at least $174,000,000 to be allocated to defense waste management activities at Hanford. The Committee believes that increased attention must be paid to disposal of wastes where practicable, and to further research and testing of disposal and management activities where needed.

Federal Energy Regulatory Commission

The Committee notes with concern that some regions of the nation may be adversely affected by FERC Order 451, which raises the ceiling price for certain categories of natural gas, and that the Order has been implemented despite the uncertainty of its economic impact on these regions. The Committee requests that EIA submit detailed information on a state-by-state basis on how Order 451 will affect natural gas prices. Further, the Committee requests that the information be submitted in a timely fashion.

Multilateral Economic Assistance

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

The Committee recommends Callable Capital for the Inter-American Development Bank at $1,111,561,128. The recommended level is 9.7 percent below the fiscal year 1986 program level. The Callable Capital provision does not increase budget authority or outlays.

Bilateral Economic Assistance

Agency for International Development

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

The Committee is aware that the Agency for International Development provides scholarship assistance to students from the Repub-

lic of Mexico to attend universities and colleges in the United States. The Committee supports this program and encourages AID to continue and increase utilization of this program, in particular, with universities and colleges along the United States—Mexico border.

CIGARETTE FIRE SAFETY STUDY

Section 132 authorizes the Interagency Committee on Cigarette and Little Cigar Safety to continue work on its ongoing study for an additional six months. Public Law 98–567 established this Interagency Committee and directed it to submit its technical report to the Congress 30 months after enactment. The work of this Interagency Committee was initially delayed due to funding constraints, although the study is now progressing smoothly. This provision postpones the required report to the Congress from April 30, 1987, to October 30, 1987, to permit the orderly conclusion of the study and the subsequent termination of the Interagency Committee and technical study group.

SHUTTLE SOLID ROCKET BOOSTERS

The Committee has previously required NASA to study an alternative solid rocket design for the Shuttle. This study is due on December 31, 1986. In accordance with recent GAO recommendations, the Committee gives further direction that after the agency and the National Research Council's redesign decisions are complete for the solid rocket boosters, NASA is to prepare and provide the Committee a comprehensive acquisition strategy and plan by March 31, 1987 for continued procurement of the motors. NASA should make available such funds as are necessary to complete this task. This plan should address (1) NASA's decision about upgrading the motor design, (2) alternatives for establishing and maintaining competition in future procurements, and (3) the costs and benefits of each alternative.

The Committee also reaffirms its language of June 19, 1986 directing that a request for proposal for a "second source" be issued, if the agency determines that such an approach can be adopted from within available resources.

WALLA WALLA VA MEDICAL CENTER

The Veterans Administration is currently considering a mission change for its medical center at Walla Walla, Washington. The proposal is to convert the existing hospital to an outpatient clinic. Eliminating inpatient services at Walla Walla will force veterans to travel great distances to receive medical care. This may effectively keep some veterans from securing needed medical attention. Also, the proposed mission change will have an adverse economic impact on the local economy. As such, the Committee strongly urges the VA not to change the mission of the Walla Walla VA Medical Center.

DEPARTMENT OF THE INTERIOR

United States Fish and Wildlife Service

RESOURCE MANAGEMENT

The Committee is concerned with action being taken at the White River National Wildlife Refuge, Arkansas with respect to houseboats which have traditionally been moored on the White River. Because there is some confusion over jurisdiction, no change in the conditions for special use permits for the houseboats is to be made by the Fish and Wildlife Service until the Service has made a full report to the Committee on its plans for the houseboats, the problems caused by the houseboats and the Committee has had an opportunity to respond to the report. The service is encouraged to negotiate with the houseboat owners a settlement that is mutually agreeable.

MIGRATORY BIRD CONSERVATION ACCOUNT

The Committee encourages the use of the Migratory Bird Conservation Account funds as made available by this Act to be used for acquiring part of the Little River Wildlife Refuge at a level of $1.1 million if the study presently being conducted by the U.S. Fish and Wildlife Service and the Corps of Engineers proves the wildlife refuge to be compatible.

NATIONAL PARK SERVICE

CONSTRUCTION

The Committee provides $5,000,000 to reconstruct the main roundhouse at Steamtown U.S.A. historic area in northeastern Pennsylvania.

The roundhouse will be used to protect the nation's largest working collection of locomotive engines.

RELATED AGENCIES

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

Bill language has been included which prohibits the Department of Education from instituting eligibility requirements for the Part A Indian Education program in fiscal year 1987. This language ensures that school districts have adequate time to review any new eligibility requirements before they are forced to implement and include them in their grant requests to the Department of Education.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

The Resolution includes $1,000,000 for salaries and expenses, Smithsonian Institution. These funds will allow the Smithsonian to acquire the items of personal property relating to the musical career of Duke Ellington. These items are described in the document entitled "A Preliminary Inventory of the Duke Ellington Collection", compiled on June 23, 1986 and on file with the National Museum of American History. The funds will also provide for the curation, care and maintenance of the items acquired, and for the reproduction and dissemination, through publication and recording, of any such item.

CONTINUATION OF FEDERAL RETIREMENT BENEFIT COVERAGE FOR CERTAIN FOOD SERVICE WORKERS

Section 136 provides retirement system protection to the employees of the House restaurant system if and when such system is contracted out to a food service contractor. The Committee on House Administration is considering the question of contracting out the food service operation. If that is done, the joint resolution provides that the employees transferred to contractor rolls will be able to elect to retain their current coverage under the Civil Service Retirement System or the Federal Employees Retirement System. The contractor will be required to make the equivalent agency contributions. These retirement provisions will be administered by the Office of Personnel Management.

RED RIVER ARMY DEPOT, TEXAS

It is the intent of the Committee that Phase I site work and Phase II construction may begin in fiscal year 1988 at the Central distribution Center at Red River Army Depot provided the following:

(1) The Army shall utilize the existing government Request for Proposal for Phase I and Phase II which allows industry to submit an alternative design for equipment within Phase II;

(2) The Army shall issue the Request for Proposal by January 1, 1987 requiring the bidder to finance Phase I and Phase II of the project as part of the proposal, with annual disbursement to the bidder to commence on or about August, 1990 upon completion of Phase II construction;

(3) The Army shall award the contract in fiscal year 1988 provided that funds are authorized and appropriated by Congress; and

(4) Third-party operation shall be tested via the commercial activities review after construction of the Central Distribution Center.

ELLSWORTH AFB, SOUTH DAKOTA

Section 137 empowers the Secretary of the Air Force to use not more than $600,000 for assistance to the Douglas School district in South Dakota for the purpose of mitigating any adverse impact on

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the schools, resulting from deployment of the B–1 bomber or establishment of a strategic training center. Funds are to be derived from military construction projects at Ellsworth Air Force Base, South Dakota.

Coast Guard

GREAT LAKES SEASON EXTENSION

The resolution includes a section permanently prohibiting the Coast Guard from implementing, or conducting any demonstration of, an extension of the navigation season on the Great Lakes or the Saint Lawrence River beyond January 15 of any year. This prohibition does not preclude a short-term extension of the navigation season to accommodate emergency navigational problems or other emergency circumstances. Routine Coast Guard search and rescue operations would not be affected by this prohibition.

Federal Aviation Administration

AUTOMATIC ALTITUDE REPORTING TRANSPONDERS

The resolution includes a section requiring that, within 30 days of enactment, the Federal Aviation Administration shall initiate a rulemaking proceeding to consider the question of requiring the installation and carriage of automatic altitude reporting (Mode C) transponders in all aircraft operating in terminal airspace where FAA provides radar service and in all controlled airspace above a minimum altitude to be determined by the FAA. This section also requires that any such rule be effective on the earliest feasible date. If promulgated, this rule would expand the terminal areas where Mode C transponders are required from 9 to approximately 180, and could also lower the current minimum altitude of 12,500 feet for carriage of such transponders. The Committee notes in this regard that certain aviation user groups have proposed reducing this minimum altitude to 4,000 feet.

Mode C transponders provide air traffic control (ATC) computers with the present altitude of an aircraft and timely information on changes in altitude. The continuous automatic display of this information to the ATC controller enhances performance of the ATC safety mission and reduces voice frequency congestion and controller workload by eliminating the need for oral altitude reports. It also permits the ATC computer to automatically provide a "conflict alert" to the controller in the event a potential conflict between aircraft is detected.

The FAA currently has three new safety programs under development to upgrade the conflict alert information provided to controllers and to pilots. These programs—"conflict alert IFR/VFR Mode C intruder", "conflict resolution advisory", and the "airborne collision avoidance system" (TCAS)—all should improve significantly the ability of controllers and pilots to detect potential collisions and take steps to avoid them. However, all three of these new enhancements are designed to rely on altitude information provided by Mode C transponders, which are now required at only nine terminal control areas and above 12,500 feet.

The Committee is deeply concerned by FAA estimates that only about 32 percent of all civil aircraft operating in the United States presently have automatic altitude reporting capability. This fact, coupled with FAA forecasts of significant growth in aviation activity over the next 15 years, calls into question whether the FAA's conflict alert and avoidance systems will be as effective in meeting future needs—especially in the congested terminal areas. Between 1982 and the year 2000, the FAA estimates that hours flown by air carriers will increase by 66.7 percent and general aviation hours flown will increase by 46.3 percent. During this same period, the single engine piston fleet, which normally operates visual flight rules below 12,000 feet, is expected to increase by 22 percent—from 168,000 to 205,000 aircraft.

Although automatic altitude reporting is no guarantee that mid-air collision will be prevented, it seems anomolous that the FAA would anticipate this growth by expending significant sums to develop and acquire advanced equipment to reduce the risk of mid-air collisions without taking the necessary steps to ensure that all aircraft can be detected by these systems.

The Committee, therefore, recommends a statutory provision that mandates the prompt initiation of rulemaking action to require additional implementation of automatic altitude reporting equipment. Since this issue is well known within the aviation community, the Committee believes that this proceeding can be completed expeditiously. The Committee therefore expects the FAA to make every effort to meet the following rulemaking schedule:

Publish NPRM in Federal Register	November 1, 1986.
Comments to FAA on NPRM	March 1, 1987.
Complete review and approval process	August 1, 1987.
Publish Final Rule	November 1, 1987.

The FAA is directed to submit quarterly status reports to the House and Senate Committees on Appropriations explaining its progress against this timetable.

While it is the clear intent of the Committee that stronger and more comprehensive Mode C requirements be promulgated, the Committee stresses that this provision is not intended to limit the FAA's discretion in fashioning a fair and justifiable regulation. The Committee is aware of some concerns over the capability of ATC equipment and controllers to effectively process the increased amount of information that would be generated by Mode C equipment. The Committee expects the Administrator to fully address this issue as part of this proceeding. The Committee also interposes no objection to the consideration of related issues (such as improved Mode C equipment standards) in this rulemaking proceeding so long as the specified timetable is not unduly delayed.

GRANTS-IN-AID FOR AIRPORTS

The Committee directs the Federal Aviation Administration to give high priority to the grant application filed by the City of Newton, Iowa to extend the main runway and make ancillary improvements at Newton Municipal Airport. These improvements are

urgently needed to preserve the economic vitality of the region and to safely accommodate the increased traffic expected at this facility.

The Committee also has been made aware of the safety and economic development problems at Russell County Airport, Kentucky and directs that priority consideration be given to the grant application submitted by the Russell County Airport Board.

The Committee recognizes that a problem exists at Burbank-Glendale-Pasadena Airport with respect to noise compatibility and unequal runway use for departures from the airport. The Committee urges that the Federal Aviation Administration and the Burbank-Glendale-Pasadena Airport Authority take the following steps:

(a) The airport sponsor for the Burbank-Glendale-Pasadena Airport, pursuant to part 150 of the Federal Aviation Regulations (14 CFR, part 150), should continue to seek approval for a noise compatibility program from the FAA;

(b) Either as part of the noise compatibility program or as a separate submission, a proposal should be submitted to the FAA for flight procedures and runway use procedures designed to equalize the noise impact from aircraft departures on areas east and west of the north/south runway; and

(c) The airport sponsor should execute an assurance with the FAA that it will implement the noise compatibility program as approved by the FAA.

The Committee also recognizes the possibility that a microwave landing system (MLS) can mitigate the noise problem and directs the FAA to include the airport among those airports to receive an MLS in fiscal year 1987.

The Committee is concerned about the impact of rising liability insurance premiums on airport facilities. The Committee directs the FAA to survey the extent to which this is a problem and to assess the impact on airport capacity; and to report its findings to the Committee by March 31, 1987.

Federal Highway Administration

Removal of limitation against construction of interstate H–3

The resolution includes a section allowing construction to proceed on a needed interstate highway in Hawaii which is included in the interstate cost estimate. There are no additional funds associated with this provision.

A recent decision of the Ninth Circuit Court makes approval of this project impossible before the 1986 and 1990 deadlines for interstate construction. In reaching its decision, the court focused on a highly technical reading of Section 4(f) of the Department of Transportation Act designed to protect publicly owned parkland. In reality, no land from the park involved (Ho'omaluhia Park) has been, nor will be taken by the highway.

Additional studies and modifications that have been proposed would not result in any additional protection for the park and may, indeed, prove harmful. Other alternatives available for the highway are not prudent and/or feasible since they are either one or

more of the following: 1) unsafe, 2) environmentally damaging, 3) much more expensive, or 4) unduly disruptive and costly to the local communities. These facts justify the inclusion of this provision and the finding by Congress that there is no feasible and prudent alternative to the Interstate H-3 alignment identified in the EIS/section 4(f) statements approved by the Secretary.

This section directs the Secretary to complete construction of this project in the location currently planned without administrative review pursuant to Section 4(f) of the Department of Transportation Act. The Committee has acknowledged the Ninth Circuit Court's findings that H-3 has complied with the National Environmental Policy Act, the Endangered Species Act, and all portions of the Department of Transportation Act other than Section 4(f).

Federal Railroad Administration

LOCAL RAIL SERVICE ASSISTANCE

In addition to the discretionary local rail service assistance grants earmarked in House Report 99-696, the Committee directs that $350,000 in discretionary LRSA funds be made available for rehabilitation work on the rail line between Assumption-Mowequa and Decatur, Illinois which was recently purchased by the Central Illinois Shippers Corporation. This project is needed to maintain rail service to area farmers and grain elevators on track proposed for abandonment by the Illinois Central Gulf Railroad.

Interstate Commerce Commission

The resolution includes a section removing the absolute prohibition against a rail carrier acquiring an interest in a water carrier that operates through the Panama Canal. It eliminates the disparate treatment of transactions between rail carriers and such water carriers and transactions between rail carriers and water carriers that do not traverse the Panama Canal. Such transactions are subject to the approval of the Interstate Commerce Commission which must find under 49 U.S.C. § 11321 that a rail carrier's acquisition of an interest in a water carrier will allow the water carrier to be operated in the public interest and will allow competition without reduction on the water route in question. In light of the vitality of the Panama Canal, the absolute prohibition originally enacted in 1912 to protect the Canal in its infancy from railroads diverting traffic from the Canal is no longer necessary. ICC review of whether a transaction involving a water carrier operating through the Panama Canal will not reduce competition is sufficient to protect competition in traffic through the Canal.

GENERAL SERVICES ADMINISTRATION

UNION STATION—TACOMA, WASHINGTON

The Administrator of the General Services Administration is directed to negotiate a lease of up to 30 years duration with the City of Tacoma, Washington for the purpose of leasing space for the U.S. Courts at the Union Station, in Tacoma, Washington. The City of Tacoma will acquire from Glacier Park Company, a subsidiary of

Burlington Northern, the Union Station and certain adjacent properties necessary for the renovation of Union Station and for additional construction necessary to meet the Federal Courts projected space requirements. At the expiration of the lease, the GSA may acquire the facility for the price of one dollar.

The City of Tacoma will seek the advice and consent of the General Services Administration and the Federal Courts in designing and constructing the courtrooms and adjunct facility space for the U.S. courts. Every effort will be made by the City of Tacoma, with the advice of the General Services Administration, to keep the renovation costs to a minimum to allow for a lease rate which approximates the appraised fair market value for leased space in Tacoma.

The City of Tacoma will finance the project through the sale of revenue bonds. GSA will enter into a lease of up to 30 years duration with the City which will commence payments at the time the Union Station renovation is completed and ready to be occupied by the U.S. Courts. GSA will lease the space at an annual rate sufficient to recover the cost of the bonds over the course of the lease term.

TRAFFIC IMPROVEMENT/SAFETY ENHANCEMENT STUDY OF THE U.S. BORDER STATION, BRIDGE OF THE AMERICAS, EL PASO, TEXAS

The Committee directs the General Services Administration to move forward with the proposals contained in the Traffic Improvement/Safety Enhancement Study of the U.S. Border Station at the Bridge of the Americas, El Paso, Texas (Project No. RTX87042) along with agency comments. The General Services Administration is directed to pave the expanded import lot and the Customs Service is directed to reimburse the GSA from available funds.

STUDY OF FEDERAL BUILDINGS—SAN FRANCISCO

The GSA is directed to study the need and availability of existing buildings meeting Federal office building requirements in San Francisco and report with specific recommendations prior to the FY 1988 appropriations hearings.

TREASURY DEPARTMENT

Bureau of Alcohol, Tobacco and Firearms

IMPORTED DISTILLED SPIRITS, MALT BEVERAGES AND WINE PRODUCTS

The Committee has become aware of the increasing need to monitor distilled spirits, malt beverages and wine products entering the United States from abroad, in order to ensure that such products comply with United States standards for identity, health, safety and purity. Therefore, the Committee directs that ATF not process any application for a certificate of label approval for imported distilled spirits, malt beverages or wine products, unless each application is accompanied by a manufacturers statement of ingredients and manufacturing process for distilled spirits and a manufacturer's statement of compliance with United States standards for wine and malt beverages. This requirement is in addition to any other certification requirement currently in place.

Internal Revenue Service

SERVICE LEVELS IN KENTUCKY

The Committee expects that the Internal Revenue Service shall maintain the existing offices in Pikeville and Paintsville, Kentucky, at least at the level of service and personnel as existed on September 1, 1986, and that the Internal Revenue Service shall open additional offices no later than December 1, 1986, in Jackson and Prestonsburg, Kentucky, with a level of service and personnel at least equal to that which exists in Pikeville, Kentucky.

CIVILIAN AND MILITARY PAY

Section 144 provides authority for a civilian and military pay raise of 3 percent—which is consistent with the Congressional Budget Resolution for FY 1987. This language is offered in lieu of the amounts proposed by the President.

The Congressional Budget Office stated on September 16, 1986, with regard to this amendment, "We estimate that your amendment would have no budgetary effect relative to the First Budget Resolution on the Budget for Fiscal Year 1987.".

This resolution does not provide any direct appropriations for pay for FY 1987.

TITLE II

OMNIBUS DRUG SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

The Committee includes in this resolution supplemental appropriations for fiscal year 1987 to fund the recently passed "Omnibus Drug Enforcement, Education, and Control Act of 1986" (H.R. 5484). This authorization bill passed the House of Representatives on September 11, 1986 by a record vote of 392 to 16. In light of the overwhelming support for this program which addresses national needs, the Committee has provided $2,099,741,000 in new budget authority.

The widespread use of illegal drugs and the detrimental effect this is having on society was amply documented during the debate on the Omnibus Drug bill before the House on September 10 and 11, 1986. The House Appropriations Committee has taken numerous hours of testimony through the various subcommittees on this problem, and has provided over one billion dollars in ongoing programs to combat the drug problem, in addition to the new funds in this title. It is the Committee's firm belief that increased awareness and dollars alone will not be enough to fight the drug battle—we *must* have a coordinated effort and overall plan within the government. The Committee will consider any needed changes and rearrangements in funding that may be necessary to implement this program when a final plan is developed and agreed upon.

HIGHLIGHTS

Department/agency	Budget authority
CHAPTER I	
Department of Justice:	
Salaries and expenses, U.S. Attorneys	$31,000,000
Salaries and expenses, U.S. Marshals Service	15,000,000
Support of U.S. Prisoners	5,000,000
Drug Enforcement Administration: Salaries and expenses	114,000,000
Federal Prison System:	
Salaries and expenses	7,000,000
Buildings and facilities	140,000,000
Office of Justice Programs: Justice assistance (block grants)	660,000,000
The Judiciary: Courts of appeals, district courts, and other judicial services: Salaries and expenses	4,500,000
U.S. Information Agency: Salaries and expenses	2,000,000
Total, Chapter I	978,500,000
CHAPTER II	
Agency for International Development: Education and human resource development	$3,000,000

HIGHLIGHTS—Continued

Department/agency	Budget authority
Department of State: International Narcotics Control	$35,000,000
Total, Chapter II	38,000,000
CHAPTER III	
Department of the Interior: National Park Service, operations	$1,000,000
Bureau of Indian Affairs:	
Operation of Indian Programs	19,860,000
Construction	34,000,000
Territorial and International Affairs: Administration of territories	4,000,000
Department of Health and Human Resources:	
Indian Health Service	37,500,000
Indian health facilities	4,000,000
Total, Chapter III	100,360,000
CHAPTER IV	
Department of Health and Human Services:	
Emergency substance abuse treatment and prevention	$280,000,000
Alcohol, drug abuse, and mental health	1,000,000
Advisory Commission on the Comprehensive Education of Intercollegiate Athletes	650,000
Department of Education: Drug abuse education and prevention	350,000,000
Total, Chapter IV	631,650,000
CHAPTER V	
Department of Transportation:	
U.S. Coast Guard, operating expenses	$59,000,000
Acquisition, construction, and improvements	59,000,000
Reserve training	9,000,000
Total, Chapter V	127,000,000
CHAPTER VI	
U.S. Customs Service:	
Salaries and expenses	$52,431,000
Air Interdiction Program	147,000,000
Customs Forfeiture Fund	12,000,000
White House Conference on Drug Abuse and Control: Salaries and expenses	5,000,000
Department of the Treasury: Payment to the Government of Puerto Rico	7,800,000
Total, Chapter VI	224,231,000
CHAPTER VII	
Department of Defense:	
From within available funds—DOD	($213,000,000)
By transfer—U.S. Coast Guard	(15,000,000)
Total, title II	2,099,741,000

CHAPTER I

DEPARTMENT OF JUSTICE

UNITED STATES ATTORNEYS

The Committee recommends an additional $31,000,000 for the United States Attorneys for fiscal year 1987. This is the full additional amount authorized for the United States Attorneys in H.R. 5484 as passed the House. These additional funds, together with the amount in the appropriations bill for fiscal year 1987 as passed the House, will provide for an increase of 690 workyears above the number currently estimated for fiscal year 1986. The Committee recommends these resources in recognition of the need for additional Assistant United States Attorneys and supporting personnel to prosecute the drug law enforcement cases that will be generated as a result of the additional Federal investigative resources provided in this resolution.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

The Committee recommends an additional $15,000,000 in the resolution for the Salaries and Expenses appropriation of the United States Marshals Service. This amount, together with the amount recommended for Support of United States Prisoners, is the full additional amount authorized for the United States Marshals for fiscal year 1987 in H.R. 5484 as passed the House.

The additional resources for the Salaries and Expenses account in this resolution, together with the amount provided in the regular fiscal year 1987 appropriations bill as passed the House, will provide for an increase of 130 workyears above the number currently estimated for fiscal year 1986. These additional Deputy United States Marshal and support resources are required to handle the substantial number of additional United States prisoners that are expected as a result of the additional Federal investigative resources that are provided in this resolution.

SUPPORT OF UNITED STATES PRISONERS

The Committee recommends an additional appropriation of $5,000,000 for the Support of United States Prisoners account of the United States Marshals Service. Of this amount, $2,000,000 is for support of United States prisoners in non-Federal institutions and $3,000,000 is for the Cooperative Agreement Program. The Committee recommends additional resources for this account because of the substantial increase in Federal prisoners and detainees that is expected due to the additional Federal investigative and prosecutive resources provided in this resolution.

The Cooperative Agreement Program provides for upgrading, expansion and construction of State and local correctional facilities that house Federal prisoners awaiting trial or transfer to Federal penal institutions. The Committee recommends an additional $3,000,000 for this program because it has proved to be extremely

effective in providing space for Federal detainees and assisting in relieving overcrowding of State and local jails.

Drug Enforcement Administration

The Committee recommends an additional $114,000,000 for the Drug Enforcement Administration for fiscal year 1987. This is the full additional amount authorized for DEA for fiscal year 1987 in H.R. 5484 as passed the House. The amount includes $10,000,000 and 94 positions to expand DEA State and local task forces, $9,000,000 and 65 positions to expand DEA Foreign Cooperative Investigations, $30,000,000 and 362 positions to enhance the Diversion Control Program and $11,000,000 and 22 positions to enhance support for the DEA air wing.

The Committee recommendation also includes $54,000,000 for increasing cooperative interdiction operations in the Bahamas. Of this amount, $49,000,000 is for procurement of six radar equipped pursuit aircraft and six high speed long range helicopters and $5,000,000 is for personnel costs for aircraft operations and support.

Federal Prison System

SALARIES AND EXPENSES

The Committee recommends an additional $7,000,000 for the Salaries and Expenses appropriation of the Federal Prison System. This is the full additional amount authorized for this item in H.R. 5484 as passed the House. Of this amount, $3,500,000 is designated for 200 additional correctional officer positions to handle the substantial increase in the number of inmates in Federal prisons expected as a result of the additional investigative and prosecutive resources provided in this resolution. The remaining $3,500,000 is for the increased care and custody costs associated with the additional number of inmates in Federal prison institutions.

BUILDINGS AND FACILITIES

The Committee recommends $140,000,000, the full additional amount authorized for fiscal year 1987 in H.R. 5484 as passed the House, for the Buildings and Facilities appropriation of the Federal prison system. These funds are provided for design and construction of three new Federal prisons. The Federal inmate population stands at 41,400 today, an increase of more than 2,000 above the estimated number for fiscal year 1986. Federal prisons are currently overcrowded by a rate of 50 percent and while the Committee has provided resources for construction of additional institutions in the regular appropriations bill for fiscal year 1987, the Committee believes that it is imperative that we begin now to plan and construct the additional institutions that will be needed to house the additional Federal prison inmates which will result from the increased drug law enforcement program authorized by H.R. 5484.

Office of Justice Programs

JUSTICE ASSISTANCE

The Committee recommends an additional $660,000,000 for the Justice Assistance appropriation for grants for drug law enforcement programs authorized by H.R. 5484 as passed the House. That bill would establish this new program through an amendment to title I of the Omnibus Crime Control and Safe Streets Act of 1968. The Committee notes that these funds may be used by States and localities for prison construction. Of the total amount provided, $625,000,000 would be distributed to the States under a grant formula for State and local drug enforcement activities via the Bureau of Justice Assistance. The remaining $35,000,000 would be available for grants for State and local drug enforcement activities at the discretion of the Administrator of the Drug Enforcement Administration. These funds could be targeted by DEA to areas which would be the most effective in combatting drug trafficking.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

The Committee recommends an additional appropriation of $4,500,000 for the Salaries and Expenses appropriation of the Federal Judiciary for contractual services and expenses relating to the supervision of drug and alcohol dependent offenders. These funds together with the $7,500,000 included in the regular fiscal year 1987 appropriations bill, as passed the House, will provide the full amount authorized for this program in H.R. 5484 as passed the House. These additional resources will permit the Judiciary to provide treatment for the expected increase in the number of Federal drug offenders resulting from increased Federal drug law enforcement prosecutions.

UNITED STATES INFORMATION AGENCY

Salaries and Expenses

The Committee recommends an additional $2,000,000 for the Salaries and Expenses appropriation of the United States Information Agency. These funds are to be available only for increasing drug education programs abroad in accordance with the authorization contained in H.R. 5484 as passed the House. These additional resources will provide for the distribution of films and publications which demonstrate the impact of drugs on crime and health and for exchange-of-persons programs and international visitor programs involving students, educators and scientists.

CHAPTER II

BILATERAL ECONOMIC ASSISTANCE

AGENCY FOR INTERNATIONAL DEVELOPMENT

Education and Human Resources Development, Development Assistance

The Committee has provided an additional $3,000,000 for the Education account to be used for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries. The Agency for International Development is to inform the Congress of the specific use of the funds through the regular notification process. If AID determines that the implementation of this program requires funds to be obligated through other AID accounts the Committee will be receptive to notifications specifying the requirements.

DEPARTMENT OF STATE

International Narcotics Control

The Committee has provided an additional $35,000,000 for International Narcotics Control in order to expand eradication, interdiction and other programs of international narcotics control. The Committee requires that the additional funding be made available only if the President: (1) requests the funds through a budget submission and (2) submits a plan showing how the requested funds will be used, including a description of how regional cooperation on narcotics control matters would be promoted by the use of these funds. The funding is to be made available through the Committees fifteen day notification process.

CHAPTER III

DEPARTMENT OF THE INTERIOR

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

The Committee recommends an appropriation of $1,000,000 for additional Park Police to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in national park system units. The funds are to be used for the employment and training of additional Park Police, for equipment and facilities to be used by Park Police and for expenses related to such employment, training, equipment, and facilities.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

The Committee recommends $19,860,000 for operation of Indian programs. Included is $8,000,000 for grants to tribes to provide technical assistance in the development of Tribal Action Plans, for

the coordination of resources and programs relevant to alcohol and substance abuse prevention and treatment. Also included is $300,000 for the cost of the Office of Alcohol and Substance Abuse to be established within the Bureau, and $60,000 for costs related to the new position of Indian Youth Programs Officer.

An additional amount of $5,000,000 is included to implement a pilot program in selected BIA schools, to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Act.

Finally, for law enforcement and judicial services, a total of $6,500,000 is recommended. Included is $2,500,000 for training of BIA and tribal law enforcement and judicial personnel; $1,500,000 for emergency medical assessment and treatment for every Indian youth apprehended on an alcohol or substance abuse related offense; $1,500,000 for eradication of marijuana cultivation within Indian country; and $1,000,000 for assistance to the Papago Indian Tribe for control of illegal narcotics traffic on the Papago reservation along the border with Mexico.

CONSTRUCTION

The Committee recommends an appropriation of $34,000,000 for construction. Included are $10,000,000 for construction or renovation of emergency shelters, halfway houses or foster care homes for Indian youth; and $24,000,000 for construction or renovation of juvenile detention and rehabilitation centers.

Territorial and International Affairs

ADMINISTRATION OF TERRITORIES

The Committee recommends $4,000,000 for grants to the Government of the Virgin Islands. Included are $3,000,000 for two patrol vessels, tracking equipment, supplies and agents; and $1,000,000 for programs to prevent narcotics abuse.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

The Committee recommends an additional $37,500,000 for Indian health services. This includes $8,250,000 for staffing and operation of the eleven regional treatment centers, to be constructed with funds provided under the facilities account. Also included is $18,000,000 for community-based rehabilitation and follow-up services for Indian youth within each Indian Health service unit. An additional amount of $4,000,000 is recommended for development and implementation of programs of community education and involvement within each service unit, including training. There is also $4,000,000 for training in alcohol and substance abuse for staff of the Indian Health Service, particularly at the service unit level, and community health representatives. Finally, there is $3,250,000 for prevention activities, to be developed in cooperation with the Secretary of the Interior. These include training of Head Start

counselors and supervisors ($1,000,000); development and implementation of a program of instruction in alcohol and substance abuse in BIA schools operated under contract ($1,000,000); and training of school counselors, teachers and other educational professionals ($1,250,000).

INDIAN HEALTH FACILITIES

The Committee recommends an additional $4,000,000 for Indian health facilities. This will allow for construction of eleven regional treatment centers for detoxification and rehabilitation.

CHAPTER IV

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse and Mental Health Administration

EMERGENCY SUBSTANCE ABUSE TREATMENT AND PREVENTION

The resolution includes $280,000,000 for Federal and State programs to prevent drug abuse and to treat the drug abusers when prevention efforts are unsuccessful. This is the full amount authorized for this purpose by title IX of H.R. 5484. These funds will be administered by a new Agency for Substance Abuse Prevention to be located within the Alcohol, Drug Abuse and Mental Health Administration and will be used for a variety of programs designed to increase the availability of both treatment and prevention services. Funds may also be used to train professional staff in the drug abuse field. The authorization specifies that $30,000,000 of this amount be made available for Federal project grants and that the remaining funds be allocated among the States by formula. This formula is based on both population at risk and relative per capita income. The authorization specifies that 80 percent of each State's allotment be used for treatment and 20 percent for community based prevention programs targeted at persons aged 5 to 24.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

The resolution appropriates $1,000,000 to the Alcohol, Drug Abuse and Mental Health Administration to fund the coverage study mandated by section 202 of title IX of H.R. 5484. This study will analyze and make recommendations to the Congress on:

1. The extent of coverage of drug abuse treatment provided by public and private insurance programs.
2. The adequacy of existing coverage.

Under the authorization this study is to be performed on a contract basis by the Institute of Medicine of the National Academy of Science and is to be completed in one year.

RELATED AGENCIES

Advisory Commission on the Comprehensive Education of Intercollegiate Athletes

SALARIES AND EXPENSES

The resolution includes $650,000 to initiate and support the activities of the Advisory Commission on the Comprehensive Education of Intercollegiate Athletes authorized by title IX of H.R. 5484. This legislative commission is to be comprised of 16 members to be appointed jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate. The Commission is charged with examining the following issues:

1. The prevalence of drugs in college sports, examining the role of colleges and universities in discouraging illegal drug use by athletes, and whether there should be mandatory drug testing for college athletes.
2. The impact of television on intercollegiate athletics, examining in particular both the negative and positive effects of the revenue generated by TV on schools and their athletes.
3. The balance between athletics and academics, examining in particular the need for stricter eligibility requirements for athletes and the need for a reduced number of athletic competitions to allow for greater pursuit of academic goals for athletes.
4. The extent of the involvement of Federal and State governments in intercollegiate athletics, to include taxes, grants-in-aid, and student loans.

Subsequent to its investigations, the Commission is to report its findings to the Congress along with any corrective measures which it determines are necessary. This report is to be filed within 18 months of the enactment of H.R. 5484 and the Commission is to cease operation 60 days after submission of its report.

DEPARTMENT OF EDUCATION

Drug Abuse Education and Prevention

The resolution includes $350,000,000 to carry out the Drug Abuse Education and Prevention Act of 1986, authorized by title VIII of H.R. 5484. These funds will be used to provide Federal assistance to States for programs of drug abuse education and prevention at the State level, in elementary and secondary schools, through community-based organizations, and at institutions of higher education.

The amount included in the resolution will be distributed as follows: One percent is allotted to the territories; one percent for programs for Indian children; five percent for national programs; ten percent for programs with institutions of higher education; and the remainder (eighty-three percent) for allotment for State and local programs.

State Programs.—States apply to the Secretary of Education for funds. Funds may be used for development, acquisition, dissemination, and implementation of model curricula, for demonstration projects, for training and for technical assistance. States must

assure that funds will only be given to local educational agencies that have mandatory drug abuse education and prevention programs.

State allotments would be based on school-age population of the States, except that no State shall receive less than an amount equal to 0.5 percent of the amount available.

The Federal government provides 100% funding in the first year, and 75% in subsequent years. Waiver of the matching requirement is authorized for distressed areas or in exceptional circumstances.

Local School Programs.—Funds are made available to local or intermediate educational agencies or consortia.

Allowable activities include development and acquisition of curricula, counseling, referral, training, prevention, early intervention programs, and education programs including programs for parents. Children and teachers from non-profit private schools may also participate.

National Drug Abuse Education and Prevention Program.—The Secretary of Education would provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by a clearinghouse of Alcohol and Drug Abuse Information. The Secretary would also provide technical assistance to educational agencies, and identify research and development priorities.

National Advisory Council.—The council is to be comprised of between fifteen and twenty-five members appointed by the President. Council members shall serve without pay, and shall advise the Secretary of Education on attracting and focusing national attention on the problem of drug abuse.

Institutions of Higher Education.—Grants and contracts would be awarded to institutions of higher education (including community and junior colleges) on a competitive basis. The Secretary would be required to give appropriate consideration to colleges and universities which have limited enrollment.

Funds would be available to institutions for the purposes of training, summer institutes and workshops, research and development and exemplary programs, and programs for law enforcement officials, community leaders, parents, and government officials.

Not less than fifty percent of the funds available for institutions of higher education must be used for grants for programs of drug abuse education and prevention for students.

Programs for Indian Children.—The Secretary shall make payments and enter into arrangements for programs to serve Indian children through the Department of the Interior, local school districts, and Indian organizations in addition to such other programs as are available to eligible Indians under other provisions in the bill.

CHAPTER V

DEPARTMENT OF TRANSPORTATION

Coast Guard

OPERATING EXPENSES

The resolution includes an additional $59,000,000 for increased personnel and operation and maintenance costs of additional equipment related to the drug enforcement activities of the Coast Guard. This amount is in addition to the minimum level of $372,983,000 specified in H.R. 5205 for Coast Guard drug interdiction activities.

The Committee believes that the Coast Guard's drug interdiction activities are an important component of our national effort to combat illegal drug use. The Committee, however, reiterates the language contained in House Report 99-696 regarding the need to develop program performance measures and to improve the coordination, evaluation and direction of the Coast Guard's drug interdiction activities.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The Committee also recommends an additional $59,000,000 for equipment and capital improvements related to the drug enforcement activities of the Coast Guard. The Committee expects these funds to be used solely for drug interdiction equipment and not to be diverted for other capital improvements. Therefore, the Committee directs that the funds recommended be available only for those Coast Guard equipment items specified in H.R. 5484 as passed by the House of Representatives.

RESERVE TRAINING

The resolution includes an additional $9,000,000 to increase the selected reserve of the Coast Guard. Under the resolution the selected reserve would be increased by 1,500 personnel to augment units of the Coast Guard engaged in drug interdiction activities.

CHAPTER IV

TREASURY DEPARTMENT

U.S. Customs Service

SALARIES AND EXPENSES

The Committee recommends a supplemental appropriation of $52,431,000 for salaries and expenses of the U.S. Customs Service. The Committee believes that the high level of drug abuse and related crime in this country requires a far stronger law enforcement effort to stem the tide of illicit drugs coming into the United States. The additional funds recommended will have a significant beneficial impact.

The Committee directs the Service to use these additional funds to hire additional Customs personnel to be used in carrying out drug enforcement activities. The Committee further directs the

Service to complete the testing of the proto-type of the automatic license plate reader program and to implement that program.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

The Committee recommends a supplemental appropriation of $147,000,000 for the operation and maintenance of the Air Interdiction Program. This supplemental appropriation will enable the Customs Air Interdiction Program to much more effectively combat the illegal entry of narcotics and other contraband into the United States.

The Committee recommends $137,000,000 for additional aircraft, communication enhancements and command, control communications and intelligence centers. The Committee directs the Customs Service to use these funds to prevent the smuggling of illegal drugs into this country.

The Committee directs the Customs Service to carefully review the current capability of existing intelligence centers and insure that this program is carefully coordinated so that there is no duplication of effort in this vitally important program.

The Committee directs the Service to provide $350,000 for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

CUSTOMS FORFEITURE FUND

The Committee recommends a supplemental appropriation of $12,000,000 from the Fund.

Seized and forfeited currency and any proceeds beyond the expenses of seizure and forfeiture of merchandise are disposited into this account. Use of these funds is limited to the following: (1) expenses related to seizure; (2) awards to informants; (3) payments of liens related to seizures; (4) equipping forfeited vessels, vehicles and aircraft; (5) payment of claims of parties of interest to property disposed; (6) purchase of evidence; and (7) destruction of drugs.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

The Committee recommends an appropriation of $7,800,000 for grants to the Government of Puerto Rico to assist in the interdiction of illegal narcotics into the Commonwealth of Puerto Rico.

The Committee has provided $3,300,000 for the purchase of two helicopters; $3,500,000 for the purchase of an aircraft and $1,000,000 for the purchase and maintenance of five high speed vessels.

EXECUTIVE OFFICE OF THE PRESIDENT

White House Conference on Drug Abuse and Control

SALARIES AND EXPENSES

The Committee recommends an appropriation of $5,000,000 for the White House Conference on Drug Abuse and Control.

The purposes of this Conference are (1) to increase public awareness of, and to focus attention on, various aspects of the problems

of drug abuse and control (including issues of enforcement of controlled substances laws and of prevention, treatment, and rehabilitation of drug abusers); (2) to pool information and experiences in order vigorously and directly to attack drug abuse at all levels—local, State, Federal, and international; and (3) to assist in formulating a national strategy (encompassing international, Federal, State, and local activities) to control trafficking in controlled substances and to prevent and treat drug abuse.

The Committee directs the Conference to review (1) the impact of recently enacted laws (including the Comprehensive Crime Control Act of 1984 and the Balanced Budget and Emergency Deficit Reduction Act of 1985) on efforts to control trafficking in controlled substances and to prevent and treat drug abuse; (2) the recommendations of the President's Commission on Organized Crime as they relate to drug abuse and control; (3) the extent to which the sanctions in section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291) have been, or should be, used in encouraging foreign states to comply with their international responsibilities respecting controlled substances; and (4) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

CHAPTER VII

DEPARTMENT OF DEFENSE

For the Defense Department portion of the omnibus drug enforcement, education, and control effort, the Omnibus Drug Enforcement, Education, and Control Act of 1986 provides that funds appropriated or made available to the Department of Defense shall be used to acquire Blackhawk helicopters ($40,000,000), to acquire four aircraft configured with the AN/APS–138 radars ($83,000,000), and to acquire seven radar aerostats ($90,000,000). In addition, the Omnibus Act provides for the transfer of $15,000,000 from the "Operation and Maintenance, Navy" account to the Secretary of Transportation to be used to assign members of the Coast Guard to duty on board naval vessels to aid in at sea drug interdictions. The Committee expects to be informed as to the sources of funds which will be used to carry out the above drug programs.

In addition to the $228,000,000 provided for the drug effort in the Omnibus Act mentioned above, the regular Defense Appropriations Bill for fiscal year 1987 (H.R. 5438) as reported to the House on August 14, 1986, contains another $200,000,000, in round figures, for various drug programs and assistance. These programs and assistance include the costs associated with drug testing, research, treatment, education, training, modification of equipment, drug interdiction support, the use of military personnel and facilities, the use of military aircraft, the loan of military equipment to U.S. drug enforcement agencies, and the use of U.S. naval vehicles.

TRANSFER OF FUNDS

Pursuant to clause 1(b)(3), rule X of the House of Representatives, the following is submitted describing the transfer of funds provided in the accompanying resolution.

Appropriation to which transfer is made	Amount	Appropriation from which transfer is made	Amount
Operations and Administration, International Trade Administration, Department of Commerce	$1,500,000	Operation and Maintenance, Defense Agencies, Department of Defense	$1,500,000

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4), Rule XI of the House of Representatives, the Committee states that in its opinion this resolution, as proposed, will have no overall inflationary impact over the broad spectrum of the Nation's economy.

COMPLIANCE WITH RULE XIII—CLAUSE 3

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows:

The accompanying resolution would amend section 1001 of Public Law 99-198 as follows:

SEC. 1001. Notwithstanding any other provision of law:

[(1) For each of the 1986 through 1990 crops, the total amount of payments (excluding disaster payments) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, and rice may not exceed $50,000.]

(1) For each of the 1986 and 1987 crops, the total of payments that a person shall be entitled to receive under one or more of the programs established under the Agricultural Act of 1949 and the National Wool Act of 1954 may not exceed $250,000.

(2) For each of the 1986 through 1990 crops, the total amount of disaster payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, and rice may not exceed $100,000.

(3) As used in this section, the term "payments" [does not include—] *includes—*

(A) loans or purchases *under the Agricultural Act of 1949 and the National Wool Act of 1954;*

(B) any part of any payment *under the Agricultural Act of 1949 and the National Wool Act of 1954 that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation;*

(C) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, or rice at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), or 101A(a)(5), respectively, of the Agricultural Act of 1949;

(D) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1) or 105C(c)(1), respectively, of such Act as the result of a reduction of the loan level for such crop under section 107D(a)(4) or 105C(a)(3) of such Act;

(E) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of such Act;

(F) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of such Act;

(G) any increased established price payments under section 105C(c)(1)(E) or 107D(c)(1)(E), respectively, of such Act; [or]

(H) any benefit received as a result of any cost reduction action by the Secretary under section 1009 of this Act[.] *and*

(I) any other payment received under the Agricultural Act of 1949 and the National Wool Act of 1954.

(4) If the Secretary determines that the total amount of payments that will be earned by any person under the program in effect for any crop will be reduced under this section, any acreage requirement established under a set-aside or acreage limitation program for the farm or farms on which such person will be sharing in payments earned under such program shall be adjusted to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(5)[A] The Secretary shall issue regulations—

[(i)]*(A)* defining the term "person"; and

([ii])*(B)* prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of the limitation established under this section.

[(B) The regulations issued by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970 (7 U.S.C. 1307) shall be used to establish the percentage ownership of a corporation by the stockholders of such corporation for the purpose of determining whether such corporation and stockholders are separate persons under this section.

[(6) The provisions of this section that limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary.]

The accompanying resolution would amend section 1801 of Public Law 99-198 as follows:

SEC. 1801. Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of the enactment of this Act. *Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person under paragraph (1) solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.*

The accompanying resolution would amend section 1760(d)(5) title 42 of the United States Code as follows:

(5) "School" means (A) any public or nonprofit private school of high school grade or under, [except private schools whose average yearly tuition exceeds $1,500 per child,] (B) any public or licensed nonprofit private residential child care institution (including, but

not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26.

The accompanying resolution would amend section 1784(c) title 42 of the United States Code as follows:

(c) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, [except private schools whose average yearly tuition exceeds $1,500 per child,] (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26.

TITLE 10, UNITED STATES CODE

Subtitle A—General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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PART II—PERSONNEL

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PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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[Note: Section 134a is redesignated as section 133 by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (conference report H. Report 99-824)].

[§ 134a. Under Secretary of Defense for Acquisition: appointment

[(a) There is an Under Secretary for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

[(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe, except as otherwise provided by law.]

§ 133. Under Secretary of Defense for Acquisition

(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition—

(1) is responsible for setting overall policy for, and supervises, all acquisitions activities of the Department of Defense; and

(2) shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Under Secretary—

(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

(3) to the extent directed by the Secretary, supervises all other officers in the Office of the Secretary of Defense who have acquisition responsibilities.

(d) Supervision of the audit and oversight functions performed by the Defense Contract Audit Agency on the date of the enactment of this section shall be carried out in the same manner as in effect on such date.

(c) The Secretary of Defense shall prescribe the precedence of the Under Secretary of the Department of Defense.

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[Note: Section 136a is redesignated as section 138 by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (conference report H. Report 99–824)].

§ 136a. Director of Operational Test and Evaluation: appointment; powers and duties

(a)(1) There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Director. The Director may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(2) * * *

* * * * * * *

(d) The Director reports directly, without intervening review or approval, to the Secretary of Defense *personally*. The Director shall consult closely with, but the Director and the Director's staff are independent of, the Director of Defense Research and Engineering and all other officers and entities of the Department of Defense responsible for research and development.

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CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

Sec.
171. Armed Forces Policy Council.
172. Ammunition storage board.
173. Advisory personnel.
174. Advisory personnel: research and development.
175. Reserve Forces Policy Board.
176. Armed Forces Institute of Pathology.
177. American Registry of Pathology.
178. Henry M. Jackson Foundation for the Advancement of Military Medicine.

§ 171. Armed Forces Policy Council

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

(1) the Secretary of Defense, as Chairman, with the power of decision;

(2) the Deputy Secretary of Defense;

(3) the Under Secretary of Defense for Acquisition;

[(3)] *(4)* the Secretary of the Army;

[(4)] *(5)* the Secretary of the Navy;

[(5)] *(6)* the Secretary of the Air Force;

[(6)] *(7)* the [Under Secretaries of Defense] *Under Secretary of Defense for Policy and the Director of Defense Research and Engineering;*

[(7)] *(8)* the Chairman of the Joint Chiefs of Staff;

[(8)] *(9)* the Chief of Staff of the Army;

[(9)] *(10)* the Chief of Naval Operations;

[(10)] *(11)* the Chief of Staff of the Air Force; and

[(11)] *(12)* the Commandant of the Marine Corps.

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PART II—PERSONNEL

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CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

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1033. Compensation: Reserve on active duty accepting from any person.
[1034 Communicating with a Member of Congress.]

1034. Communicating with a Member of Congress or Inspector General.
1035. Deposits of savings.
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1037. Counsel before foreign judicial tribunals and administrative agencies; court costs and bail.
1038. Service credit: certain service in Women's Army Auxiliary Corps.
1039. Crediting of minority service.
1040. Transportation of dependent patients.
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1043. Service credit: service in the National Oceanic and Atmospheric Administration or the Public Health Service.
1044. Legal assistance.
1045. Voluntary withholding of State income tax from retired or retainer pay.
1046. Preseparation counseling requirement.
1047. Allowance for civilian clothing.
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1049. Subsistence: miscellaneous persons.
1050. Latin American cooperation: payment of personnel expenses.

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[§ 1034. Communicating with a Member of Congress

No person may restrict any member of an armed force in communicating with a Member of Congress, unless the communication is unlawful or violates a regulation necessary to the security of the United States.]

§ 1034. Communicating with a Member of Congress or Inspector General

(a) RESTRICTING COMMUNICATIONS WITH MEMBERS OF CONGRESS AND INSPECTORS GENERAL PROHIBITED.—

(1) GENERAL RULE.—No person may restrict a member of an armed force in communicating with a Member of Congress or an Inspector General.

(2) EXCEPTIONS.—Paragraph (1) does not apply to a communication that—

(A) is unlawful; or

(B) violates a regulation necessary to the security of the United States.

(b) PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of an armed force for making or preparing a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted.

(c) INSPECTOR GENERAL INVESTIGATION.—

(1) INVESTIGATION OF CERTAIN ALLEGATIONS.—The Inspector General of the Department of Defense shall expeditiously investigate an allegation by a member of the armed forces that a reprisal prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication to a Member of Congress or an Inspector General making a complaint or disclosing information that the member of the armed forces reasonably believes evidences—

(A) a violation of a law, rule, or regulation; or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) TIME FOR ALLEGATION.—The Inspector General is not required to make an investigation under paragraph (1) in the case of an allegation made more than 90 days after the reprisal (or threatened reprisal) that is the subject of the allegation.

(3) INVESTIGATION OF SUBJECT MATTER OF DISCLOSURE.—If the Inspector General has not already done so, the Inspector General shall commence a separate investigation for the information that the member believes evidences wrongdoing as described in subparagraph (A) or (B) of paragraph (1).

(4) REPORT.—Not later than 10 days after completion of an investigation under this subsection, the Inspector General shall submit a report on the results of the investigation to the Secretary of Defense. The Inspector General shall provide an unclassified copy of that report to the member concerned.

(5) TIME FOR REPORT.—If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (2) within 30 days of the date of receipt of the allegation, being investigated, the Inspector General shall provide to the Secretary of Defense and to the member making the allegation a notice—

(A) of that determination (including the reasons why the report may not be submitted within that time); and

(B) of the time when the report will be submitted.

(6) CONTENT OF REPORT.—The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. If a person agrees to be interviewed only on the condition that the person's identity not be disclosed, the report shall not contain any information about such interview. The report shall contain no findings of disputed fact or recommendations as to the disposition of the complaint.

(7) DELEGATION.—The Inspector General of the Department of Defense may delegate any function, power, or duty of the Inspector General under this subsection to any other Inspector General in the Department of Defense.

(d) CORRECTION OF RECORDS.—

(1) BOARDS FOR CORRECTION OF MILITARY RECORDS.—In resolving an allegation made by a member of an armed force to whom the Inspector General has reported under subsection (c), a correction board acting under section 1552 of this title, on the request of the member or otherwise, may—

(A) direct further investigation;

(B) direct the production of evidence;

(C) direct the examination of witness;

(D) receive oral argument; or

(E) direct or conduct an evidentiary hearing.

(2) LEGAL ASSISTANCE.—A member to whom the Inspector General has reported under subsection (c) is entitled to the as-

sistance of a judge advocate in filing a petition for correction under section 1552 of this title.

(3) BOARD DECISIONS.—The Board shall issue a final decision with respect to the petition within 120 days after the filing of such petition. If the Board fails to issue such a final decision within such time, the member shall be deemed to have exhausted administrative remedies under section 1552 of this title to the extent that such exhaustion may be required in any judicial proceeding concerning the relief sought in the petition for correction. The decision of the Board shall be in writing and shall include findings of fact and a statement of reasons. The Board shall cause its decision to be served on the petitioner by first class mail to the address listed in the petition for correction within 10 days of the date of the decision. A determination by the Board by a preponderance of the evidence that a personnel action adversely affecting a member would not have been taken in the absence of a complaint or disclosure of information described in subsection (c)(1) shall constitute a determination of a prohibited retaliatory personnel action under subsection (b).

(4) CORRECTIVE ACTION.—The Board shall order such action as is necessary to correct the record and the effect of a prohibited retaliatory personnel action.

(5) DISCIPLINARY ACTION.—If the Board determines that a prohibited retaliatory personnel action, as defined in subsection (b), has occurred, the Board shall refer the record of the matter to the officer exercising general court-martial jurisdiction over the person who committed the prohibited retaliatory personnel action.

(e) JUDICIAL REVIEW.—

(1) RIGHT OF REVIEW.—(A) A member of an armed force aggrieved by a final order of the Board may obtain judicial review of the order by filing a petition for review before the end of the 60-day period beginning on the later of—

(i) the date the member received notice of the order of the Board; or

(ii) the date on which the member was deemed to have exhausted administrative remedies under subsection (d)(3).

(B) A petition for review under subparagraph (A) shall be filed with the United States Court of Appeals—

(i) for the circuit in which the member resides;

(ii) for the circuit in which the member is stationed; or

(iii) in the Court of Appeals for the District of Columbia.

(2) REVIEW OF RECORD.—With respect to any case for which a petition for review is filed under paragraph (1)(A), the court—

(A) shall review the record; and

(B) in any case in which it determines that the record fails to resolve significant issues of fact, may refer the case to the appropriate United States district court for a hearing de novo.

(3) STANDARD OF REVIEW.—The court shall set aside any order of the Board that, upon completion of a review under paragraph (2), is determined to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or

(B) not supported by substantial evidence.

(4) ATTORNEYS FEES.—If, upon completion of a review under paragraph (2), the court finds that the claim of the member is meritorious, the court shall award such member reasonable attorneys fees and costs.

(f) REGULATIONS.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section. Such regulations shall include regulations for which violations are subject to section 892 of this title (article 92 of the Uniform Code of Military Justice).

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CHAPTER 84—DEFENSE ACQUISITION CORPS

Sec.
1611. Establishment.
1612. Appointments.

§ 1611. Establishment

(a) ESTABLISHMENT.—There is in the Department of Defense a Defense Acquisition Corps consisting of acquisition-related positions in the Office of the Secretary of Defense, the military departments, and the Defense Agencies specified in regulations prescribed by the Secretary of Defense. The head of the Defense Acquisition Corps is the Under Secretary of Defense for Acquisition.

(b) NUMBER.—The number of Defense Acquisition Corps positions in a military department shall be determined by the Secretary of Defense.

§ 1612. Appointments

The Secretary of Defense shall make appointments to the Defense Acquisition Corps from the best-qualified military personnel. The qualifications of such personnel shall be established based on levels of education, experience, and training and performance on examinations.

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 131—PLANNING AND COORDINATION

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Chap.
2214. Audit and oversight of contractor activities: coordination and prevention of duplicative policies.

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§ 2214. Audit and oversight of contractor activities: coordination and prevention of duplicative policies

(a) COORDINATION.—The Secretary of Defense shall prescribe procedures to ensure that Department of Defense policies for the audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication of audit and oversight activities by different elements of the Department.

(b) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Under Secretary of Defense for Acquisition and the Inspector General of the Department of Defense.

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CHAPTER 137—PROCUREMENT GENERALLY

Sec.
2301. Congressional defense procurement policy.

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2325. Undefinitized contractual actions: restrictions.

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§ 2325. Undefined contractual actions: restrictions

(a) IN GENERAL.—The head of an agency may not enter into an undefinitized contractual action unless—

(1) the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action; and

(2) the contractual action provides for determination of contractual terms, specifications, and price by the earlier of—

(A) the end of the 180-day period beginning on the date that the contractual action is initiated; or

(B) the date on which the amount of funds obligated or expended under the contract is equal to 50 percent of the amount of the negotiated overall ceiling price.

(b) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(2) If a contractor submits a proposal to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for

spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

(1) good business practice; and

(2) in the best interests of the United States.

(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

(1) good business practice; and

(2) in the best interests of the United States.

(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

(1) the reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

(g) DEFINITION.—In this section, the term "undefinitized contractual action" means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

Sec.

. . . . . .

2397b. Certain former Department of Defense procurement officials limitations on employment by contractors.

2397c. Defense contractors requirements concerning former Department of Defense officials.

2408. Contractor employees: protection from reprisal for disclosure of certain information.

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§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

(a)(1) Any person—

"(A) who is a former officer or employer of the Department of Defense or a former or retired member of the armed forces; and

(B) who, during the two-year period preceding the person's separation from service in the Department of Defense, participated personally and substantially, and in a manner involving decisionmaking responsibilities, in a procurement function with respect to a contract through contact with the contractor.

may not accept compensation from that contractor for a period of two years following the person's separation from service in the Department of Defense.

(2) In paragraph (1), the term "decisionmaking responsibilities" includes the following activities with respect to a contract: approval or disapproval, or making recommendations or engaging in negotiations, with regard to a procurement function.

(3) For purposes of paragraph (1), whether or not a person is a contractor (as defined in subsection (f)(2)) is determined as of the date of the separation from service of the officer or employee of the Department of Defense or member of the armed forces involved.

(4) Any person who knowingly violates paragraph (1) shall be imprisoned for not more than one year and shall be subject to a fine in the amount provided in title 18.

(5) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of paragraph (1), shall be imprisoned for not more than one year and shall be subject to a fine in the amount provided in title 18.

(b)(1) This section applies only to—

(A) civilian positions for which the rate of pay is equal to or greater than the minimum rate of pay payable for grade GS–13 of the General Schedule; and

(B) to positions held by members of the armed forces in a pay grade of O–4 or higher.

(2)(A) When a vacancy occurs in a sensitive civilian procurement executive position, the Secretary of Defense, with the concurrence of the Director of the Office of Government Ethics, may exempt the person appointed to fill the vacancy from the positions of subsection (a) by reason of service in such position.

(B) For purposes of subparagraph (A), a sensitive civilian procurement executive position is a position—

(i) which is identified under paragraph (1);

(ii) which is a civilian position to which a person is appointed by the President, by and with the advice and consent of the Senate; and

(iii) with respect to which the Secretary of Defense determines that the duties inherent in the position involve personal and substantial participation in procurement functions (to the extent to which subsection (a)(1) applies) with so many contractors that implementation of subsection (a) with respect to persons serving in the position would seriously hamper the ability of the Department of Defense to obtain the services of a highly qualified person to serve in the position.

(C) An exemption granted under this paragraph shall not apply to the extent that the person granted the exemption acts as a Government representative in the negotiation or settlement of a contract with a contractor.

(D) Whenever the Secretary of Defense grants an exemption under this paragraph, the Secretary shall promptly submit to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and the Judiciary of the House of Representatives a report describing the exemption and setting forth the specific reasons for the exemption.

(c) The Secretary of Defense shall provide to each person separated from service in the Department of Defense in a position described in subsection (b)(1) who, within the two years preceding the date of

such separation, participated in a procurement function of the Department a notice with respect to this section. Such notice shall include—

(1) a written explanation of the provisions of this section; and

(2) the name of each contractor from whom such person is prohibited from accepting compensation under this section.

(d) This section does not apply—

(1) to a contract for an amount less than $100,000;

(2) to compensation of a person by an entity that did not have a Department of Defense contract in excess of $100,000 at the time the person participated personally and substantially in a procurement function (to the extent to which subsection (a)(1) applies) with respect to a contract with that entity; or

(3) to a contractor that was awarded contracts by the Department of Defense during the preceding fiscal year in a total amount less than $100,000.

(c)(1) A person who is considering the propriety of accepting compensation that might place the person in violation of subsection (a) may, before acceptance of such compensation, apply to the Director of the Office of Government Ethics for advice on the applicability of this section to the acceptance of such compensation.

(2) An application under paragraph (1) shall contain such information as the Director requires.

(f) In this section:

(1) The term "compensation" includes any payment, gift, benefit, reward, favor, or gratuity—

(A) which is provided, directly or indirectly, for services rendered; and

(B) which is valued in excess of $250 at the prevailing market price.

(2) The term "contractor" means—

(A) a person, that contracts to supply the Department of Defense with goods or services; and

(B) a person that controls, is controlled by or is under common control with a person described in subparagraph (A).

Such term does not include a State or local government or an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code.

(3) The term "procurement function" includes, with respect to a contract, any function relating to—

(A) the negotiation, award, administration. or approval of the contract;

(B) the section of a contractor;

(C) the approval of changes in the contract;

(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

(E) the management of the procurement program.

(4) The term "armed forces" does not include the Coast Guard.

(g) For the purposes of this section and section 2397c of this title, a member or former member of the armed forces shall be considered

to have been separated from service in the Department of Defense upon the member's discharge or release from active duty.

§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

(a)(1) With respect to a contractor that during a fiscal year enters into contracts with the Department of Defense for the procurement of goods and services in amounts aggregating $100,000 or more, each contract for procurement of goods or services entered into by the Department with that contractor during the next fiscal year shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

(A) $100,000; or

(B) three times the compensation paid by the contractor to the person in violation of such contract provision.

(b)(1)(A) Each contractor subject during a calendar year to a contract term described in subsection (a) shall submit to the Secretary of Defense not later than April 1 of the next year a report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who—

(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces: and

(ii) was provided compensation by that contractor during the preceding calendar year, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

(B) Each such listing shall—

(i) show each agency in which the person was employed or served on active duty during the last two years of the person's service in the Government;

(ii) show the person's job titles during the last two years of the person's service in the Government;

(iii) contain a full and complete description of the duties of the person during the last two years of such service; and

(iv) contain a description of the duties (if any) that the person is performing on behalf of the contractor.

(2) A person who knowingly fails to file a report required by paragraph (1) shall be fined not more than $10,000.

(3) The Secretary of Defense shall review each report under paragraph (1) to assess the report for accuracy and completeness and for the purpose of identifying possible violations of paragraph (1) or section 2397b(a) of this title or of a contract provision required by subsection (a). The Secretary shall report any such possible violation to the Attorney General.

(c)(1) The Director of the Office of Government Ethics shall have access to the reports submitted under subsection (b)(1) and shall conduct an annual random review of the reports for violations of section 2397b(a) of this title and subsections (a) and (b)(1).

(2) Not later than October 1 of each year, the Director shall submit to Congress a report on the operation of this section. Each such report shall include the findings of the Director based on the examination of reports for the preceding calendar year.

(d) This section does not apply to a contract for an amount less than $100,000.

(e) The definitions set forth in section 2397b(f) of this title apply to this section.

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§ 2408. Contractor employees: protection from reprisal for disclosure of certain information

(a) PROHIBITION OF REPRISALS.—(1) A contractor of the Department of Defense may not take a reprisal action against any officer or employee of that contractor for disclosing to an appropriate Government official information relating to a contract (or the negotiation or competition for a contract) between such contractor and the Department of Defense which the officer or employee reasonably believes evidences—

(A) a violation of law, rule, or regulation; or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) In this section, the term "appropriate Government official" includes—

(A) an officer or employee of the Department of Defense;

(B) a Member of Congress or an officer or employee of Congress, the General Accounting Office, the Congressional Budget Office, or the Office of Technology Assessment;

(C) any other officer or employee of the United States whose duties include the investigation or enforcement of any law, rule, or regulation relating to defense acquisition; and

(D) a member or employee of any authorized commission established for purposes related to defense acquisition.

(b) REMEDIES.—(1) An officer or employee of a defense contractor who believes that such officer or employee has been subject to a reprisal prohibited by subsection (a) may file a complaint with the Secretary of Defense.

(2)(A) Under procedures prescribed by the Secretary of Defense by regulation, the Secretary shall investigate each complaint filed under paragraph (1).

(B) If, after an investigation under subparagraph (A), the Secretary believes there is a reasonable likelihood that a reprisal prohibited by subsection (a) has occurred, the Secretary shall provide the contractor with an opportunity to show cause why the Secretary should not order corrective action and assess penalties under subparagraph (C).

(C) If, after considering the presentation of the contractor under subparagraph (B), the Secretary finds that a reprisal prohibited by subsection (a) has occurred, the Secretary shall—

(i) order the contractor to take action to eliminate the adverse effect of the reprisal on the complainant; and

(ii) assess a monetary penalty against such contractor.

(D) The Secretary shall impose penalties, which may include monetary fines and debarment from further contracts, against any contractor who fails to comply promptly with an order of the Secretary under subparagraph (C).

(E) The Secretary shall issue a decision on a complaint filed under paragraph (1) within 45 days of receipt of the complaint.

(3)(A) The decision of the Secretary under paragraph (2) shall be a final agency action for purposes of chapter 7 of title 5.

(B) Failure of the Secretary to decide on a complaint within the period provided in paragraph (2)(E) shall be deemed to be final agency action for purposes of chapter 7 of title 5.

(C) In any action brought under chapter 7 of title 5 related to a reprisal under subsection (a), a court may assess against the defense contractor, or against the United States, reasonable attorney fees and other litigation costs reasonably incurred by an officer or employee of the contractor who substantially prevails in such action.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section (other than subsection (b)(3)). Such regulations shall provide that any firm which negotiates with the Department of Defense for a contract or competes for a Department of Defense contract thereby submits to the jurisdiction of the Secretary of Defense for purposes of this section.

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SECTION 921 OF THE DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1986

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TITLE IX—PROCUREMENT POLICY REFORM AND OTHER PROCUREMENT MATTERS

SEC. 901. SHORT TITLE

This title may be cited as the "Defense Procurement Improvement Act of 1985".

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PART B—PROCUREMENT PERSONNEL MATTERS

[SEC. 921. POST-GOVERNMENT-SERVICE EMPLOYMENT BARS ON SENIOR DEFENSE OFFICIALS

[Whoever being a Presidential appointee in Federal employment acts as a primary government representative in the negotiation of a government contract or the settlement thereof with a defense contractor shall not within two years after the termination of said activities with such contractor accept employment from that contractor and upon a knowing violation of this provision the employee shall be punished, upon conviction, with a prison term of up to one year and a fine of up to $5,000 and said defense contractor shall forfeit up to $50,000 in liquidated damages to the Federal Government which shall be provided for in the contract. The Secre-

tary of Defense shall implement this provision by appropriate regulations.]

Section 501 of title 32, United States Code, is amended as follows:

§ 501. Training generally

(a) The discipline, including training, of the Army National Guard shall conform to that of the Army. The discipline, including training, of the Air National Guard shall conform to that of the Air Force.

(b) The training of the National Guard shall be conducted by the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia in conformity with this title.

(c) With regard to active duty outside the United States, its territories, and its possessions, the consent of the Governor described in sections 672(b) and 672(d) of title 10 may not be withheld in whole or in part because of any objection to the location, purpose, type, or schedule of such active duty.

Section 672 of title 10, United States Code, is amended as follows:

§ 672. Reserve components generally

(a) In time of war or of national emergency declared by Congress, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of a reserve component under the jurisdiction of that Secretary to active duty (other than for training) for the duration of the war or emergency and for six months thereafter. However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.

(b) At any time, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, in an active status in a reserve component under the jurisdiction of that Secretary to active duty for not more than 15 days a year. However, units and members of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor of the State or Territory, Puerto Rico, or the Canal Zone, or the commanding general of the District of Columbia National Guard, as the case may be *except as provided by section 501(c) of title 32.*

(c) So far as practicable, during any expansion of the active armed forces that requires that units and members of the reserve components be ordered to active duty (other than for training), members of units organized and trained to serve as units who are ordered to that duty without their consent shall be so ordered with

their units. However, members of those units may be reassigned after being ordered to active duty (other than for training).

(d) At any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him or active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned *except as provided by section 501(c) of title 32.*

(e) The period of time allowed between the date when a Reserve ordered to active duty (other than for training) is altered for that duty and the date when the Reserve is required to enter upon that duty shall be determined by the Secretary concerned based upon military requirements at that time.

The accompanying resolution would amend Section 8 of Public Law 86–488 as follows:

SEC. 8. *(a)* There is hereby authorized to be appropriated for construction of the works of the San Luis unit, including joint-use facilities. * * *

(b) Notwithstanding any other provision of law, none of the costs associated with, or resulting from, the following which have been or will be incurred shall be recovered by the Secretary, directly or indirectly, from power contractors of the Central Valley project:

(1) the construction of such distribution systems and drains as are not constructed by local interests;

(2) the construction of the San Luis interceptor drain; or

(3) the construction of acquisition of any facilities by the United States or the Westlands Water District as partial or full alternatives to the San Luis interceptor drain.

The accompanying bill would amend section 11321(b) of Title 49, United States Code, as follows:

(b) Notwithstanding subsection (a) of this section, the Commission may authorize a carrier providing transportation subject to the jurisdiction of the Commission under that subchapter to own, operate, control, or have an interest in a water common-carrier or vessel [that is not operated through the Panama Canal and] with which the carrier does or may compete for traffic when the Commission finds that ownership, operation, control, or interest will still allow that water common carrier or vessel to be operated in the public interest advantageously to interstate commerce and that it will still allow competition, without reduction, on the water route in question. However, section 11343 of this title also applies to a transaction or interest under this subsection if the transaction or interest is within the scope of that section. The Commission may begin a proceeding under this subsection on application of a carrier. An authorization under this subsection is not necessary for a carrier that obtained an order of extension before September 18, 1940, under section 5(21) of the Interstate Commere Act (37 Stat. 567), as amended, if the order is still in effect.

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